S.B. Civil Writ Petition No.5324/2004

M/s B.L. Choudhary & Company
V/s
Rajasthan Housing Board, Jodhpur & Ors

Date of Order : 6/12/2004

HON'BLE MR. PRAKASH TATIA,J.

Mr. N.K. Rastogi, for the petitioner/s

Heard learned counsel for the petitioner.

According to the learned counsel for the petitioner, the petitioner is a Class "A" registered contractor and he has a capacity to do the work upto Rs.3 Crore. The petitioner applied for work in pursuance to the notice inviting tender dated 20.8.2004 (Annex.-2). In the said Notice Inviting Tender (NIT) the invitation was for the work of category "A-1" and category "A-2". The petitioner was awarded work contract for category "A-2" on 11.10.2004. The petitioner was invited to take part in the negotiation for the work contract for category "A-1" vide Annexure-3 dated 30.9.2004. The petitioner submitted his revised rates before the respondents, but the respondents instead of considering the revised rates submitted by the petitioner gave a threat that the petitioner will be black listed. This threat is clearly mentioned in 12.10.2004 (Annexure-5).

According to the learned counsel for the

petitioner, the petitioner being Class "A" contractor has capacity do the work of the valuation of Rs.3 crore. The petitioner was awarded work order of Rs.74 lacs on earlier occasion. According to the petitioner, the petitioner offered that he is prepared to do the work of category "A-1" instead of category "A-2", for which he is eligible but that request was not accepted on the ground that the petitioner's bid capacity has already stood reduced because of work order issued to the petitioner.

In sum and substance, it appears that the petitioner, who is the Class "A" contractor, has working capacity to do the work upto Rs.3 crore was awarded one work order of Rs.74.60 lacs whereby the working capacity stands reduced. For the purpose of awarding work contract in pursuance of Annexure-2 dated 20.8.2004, the matter was considered and finalised for the work for category "A-2" and it was awarded to the petitioner on 11.10.2004. By this the petitioner's bid capacity further stands reduced or went below. Since one bid has already been accepted and finalised and that has not been refused by the petitioner, therefore, certainly at the time of negotiation he was not eligible to do the work of category "A-1" as his capacity after issuance of work order "A-2" standS reduced.

In view of the above, I do not find any illegality in the action of the respondents. However, so far as threat of black listing of the petitioner is concerned, the writ petition is pre-mature because the respondents will have to follow the procedure of black listing. Unless any action is initiated for black listing the petitioner, the petitioner cannot have grievance merely in the light of Annexure-5 wherein he was asked to submit the reasons why he should not be black listed. It is only virtually a show cause notice.

In view of the above, there is no merit in this writ petition, therefore, the writ petition is dismissed.

(PRAKASH TATIA)J.

Rm/